

**FROM THE COMMITTEE ON
MODEL CIVIL JURY INSTRUCTIONS**

The Committee has adopted the following amended model civil jury instruction effective October 25, 2018.

ADOPTED

M Civ JI 172.12 Termination of Conservatorship of an Adult

The conservatorship of [*name of protected person*] will be terminated by the court unless the respondent proves by clear and convincing evidence that:

- (a) by reason of [mental illness / mental deficiency / physical illness or disability / chronic use of drugs / chronic intoxication / confinement / detention by a foreign power / disappearance / [*other*]],
- (b) [*name of protected person*] continues to be unable to manage [his / her] property and business affairs effectively.

The court will furnish a Special Verdict Form to assist you in your duties. Your answers to the questions in the Special Verdict Form will assist the court in making its final disposition in this case.

Note on Use

This instruction should be preceded by the definition of clear and convincing evidence in M Civ JI 8.01. On the applicability of the clear and convincing standard for termination of conservatorships established before April 1, 2000, see MCL 700.8101(2)(b).

This instruction should not be used for the termination of a conservatorship for a minor's estate and affairs. See MCL 700.5401(2).

Comment

MCL 700.5431.

Mental illness is defined in MCL 330.1400(g). Mental incompetency is discussed in *In re Swisher's Estate*, 324 Mich 643; 37 NW2d 657 (1949) and cases cited therein.

History

M Civ JI 172.12 was added January 1985. Amended June 2000. Amended October 2018.

The Michigan Supreme Court has delegated to the Committee on Model Civil Jury Instructions the authority to propose and adopt Model Civil Jury Instructions. MCR 2.512(D). In drafting Model Civil Jury Instructions, it is not the committee's function to create new law or anticipate rulings of the Michigan Supreme Court or Court of Appeals on substantive law. The committee's responsibility is to produce instructions that are supported by existing law.

The members of the Committee on Model Civil Jury Instructions are:

Chair: Hon. Mark T. Boonstra

Reporter: Timothy J. Raubinger

Members: Benjamin J. Aloia; Robert L. Avers; Hon. Jane M. Beckering; Mark R. Bendure; Hon. James N. Erhart; Hon. Kathleen A. Feeney; Gary N. Felty, Jr.; William B. Forrest, III; Donald J. Gasiorek; James F. Hewson; Hon. Michael L. Jaconette; Amy M. Johnston; C. Thomas Ludden; Daniel J. McCarthy; Daniel J. Schulte; Hon. Douglas B. Shapiro; Judith A. Susskind; Hon. Donald A. Teeple; Thomas Van Dusen; Thomas W. Waun.